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20 UNITED STATES DISTRICT COURT  
21 NORTHERN DISTRICT OF CALIFORNIA  
22 SAN FRANCISCO DIVISION

23 DAVID AND NATASHA WIT, et al.,

24 Case No. 3:14-CV-02346-JCS  
25 Related Case No. 3:14-CV-05337-JCS

26 Plaintiffs,

27 v.

28 UNITED BEHAVIORAL HEALTH,

29 Defendant.

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30 **PLAINTIFFS' NOTICE REGARDING**  
31 **MAILING AND PUBLICATION OF**  
32 **NOTICES OF PARTIAL CLASS**  
33 **DECERTIFICATION**

34 GARY ALEXANDER, et al.,

35 Plaintiffs,

36 v.

37 UNITED BEHAVIORAL HEALTH,

38 Defendant.

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1 Pursuant to this Court's November 19, 2020 Order re Finalization of Class Lists and  
 2 Notices of Partial Class Decertification (*Wit* ECF No. 499) (the "Order"), paragraph 11, Plaintiffs  
 3 hereby notify the Court as follows regarding mailing and publication of the specified notices.

4 **A. Mailed Notices**

5 The parties conferred and agreed on the lists of recipients of the notices described in  
 6 paragraphs 8(a), (d), (e), and (h) of the Order. On **January 22, 2021**, the Class Administrator  
 7 mailed a total of **528** notices, as follows:

- 8 • **87** Notices of Partial Class Decertification of Class Action to Illinois members of  
 9 the *Wit* State Mandate Class whose denials were issued on or after January 2,  
 10 2016, *see* Order ¶ 8(a);
- 11 • **113** Notices of Non-Class Membership to members of all classes who were  
 12 among the 170 individuals included on the class list based on administrative  
 13 initial denials who did not subsequently receive a Guideline denial, *see* Order  
 14 ¶¶ 8(d)-(e); and
- 15 • **328** Notices of Non-Class Membership to Texas members of the *Wit* State  
 16 Mandate Class whose denials were based solely on the Texas Department of  
 17 Insurance criteria and not on UBH's Guidelines, *see* Order ¶ 8(h).

18 The final forms of the notices mailed by the Class Administrator are attached hereto as  
 19 **Exhibit A** (Illinois State Mandate); **Exhibit B** (*Wit* administrative denials); **Exhibit C** (*Alexander*  
 20 administrative denials); and **Exhibit D** (Texas State Mandate).

21 The Class Administrator also posted the mailed notices to the class action website  
 22 ([www.UBHGuidelinesClassAction.com](http://www.UBHGuidelinesClassAction.com)) on January 22, 2021. Zuckerman Spaeder LLP posted  
 23 the mailed notices to its website ([www.Zuckerman.com/class-actions](http://www.Zuckerman.com/class-actions)) on the same date. Psych-  
 24 Appeal, Inc. posted the mailed notices on January 24, 2021.<sup>1</sup>

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<sup>1</sup> The mailed notices that were posted to the Class Administrator's website on January 22, 2021  
 (and thereafter, to Plaintiffs' counsels' websites) were the forms approved by the Court on  
 November 19, 2020, rather than the slightly-revised forms that were printed and mailed to the  
 recipients. Plaintiffs' counsel became aware of the discrepancy on January 25, 2021, and  
 immediately notified the Class Administrator. The correct forms of the mailed notices were  
 posted on January 25, 2021 on the class website as well as the Zuckerman Spaeder LLP and  
 Psych-Appeal, Inc. websites. The differences between the forms of the notices are not  
 substantive.

1           On January 26, 2021, it came to Plaintiffs' attention that fourteen of the Notices of Non-  
 2 Class Membership sent to individuals with administrative initial denials were sent in error  
 3 because those individuals had also received *other* denials on different dates that did meet the class  
 4 criteria. The parties conferred and agreed that these fourteen individuals should be sent a  
 5 corrective letter to explain that, while the administrative-only denial is being removed from the  
 6 class list, those individuals remain class members with respect to other denials. Accordingly,  
 7 Plaintiffs, with UBH's consent, respectfully request the Court's approval to send the corrective  
 8 letter attached hereto as **Exhibit E**.

9           **B. Publication-Only Notices**

10          On **January 22, 2021**, the Class Administrator published on the class action website four  
 11 publication-only Notices of Partial Class Decertification, attached hereto as **Exhibits F-I**, directed  
 12 to the following groups:

- 13           • **Exhibit F (Wit):** Any member of a health benefit plan governed by ERISA whose  
 14 request for coverage of residential treatment services for a mental illness or  
 15 substance disorder was denied by UBH between May 22, 2011 and June 1, 2017,  
 16 based on any ground other than application of UBH's Level of Care Guidelines or  
 17 UBH's Coverage Determination Guidelines, where such request was denied at the  
 18 administrative appeal level of UBH's coverage determination process based, in  
 19 whole or in part, on UBH's Level of Care Guidelines or UBH's Coverage  
 20 Determination Guidelines, who did not receive actual notice of this class action  
 21 prior to the opt-out deadline, *see Order ¶ 8(b)*;
- 22           • **Exhibit G (Alexander):** Any member of a health benefit plan governed by  
 23 ERISA whose request for coverage of outpatient or intensive outpatient treatment  
 24 services for a mental illness or substance disorder was denied by UBH between  
 25 December 4, 2011 and June 1, 2017, based on any ground other than application  
 26 of UBH's Level of Care Guidelines or UBH's Coverage Determination  
 27 Guidelines, where such request was denied at the administrative appeal level of  
 28 UBH's coverage determination process based, in whole or in part, on UBH's  
 29 Level of Care Guidelines or UBH's Coverage Determination Guidelines, who did  
 30 not receive actual notice of this class action prior to the opt-out deadline, *see Order ¶ 8(c)*;
- 31           • **Exhibit H:** Members of the *Wit* Guidelines Class and the *Wit* State Mandate Class  
 32 whose administrative appeals of their denials were fully successful, *see Order*  
 33 ¶ 8(f); and

1        • **Exhibit I:** Members of the *Alexander* Guidelines Class whose administrative  
2        appeals of their denials were fully successful, *see* Order ¶ 8(g).

3        Zuckerman Spaeder LLP also posted the four publication-only notices to its website on  
4        January 22, 2021. Psych-Appeal, Inc. posted the four publication-only notices to its website on  
5        January 24, 2021.

6        Dated: January 29, 2021

ZUCKERMAN SPAEDER LLP

8        /s/ *Caroline E. Reynolds*

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